



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/075,051	02/12/2002	Wei Wang	02453.0003.CNUS01	8564

27194 7590 10/15/2008
HOWREY LLP-CA
C/O IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DRIVE, SUITE 200
FALLS CHURCH, VA 22042-2924

EXAMINER

BAYARD, DJENANE M

ART UNIT	PAPER NUMBER
----------	--------------

2441

MAIL DATE	DELIVERY MODE
-----------	---------------

10/15/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/075,051	Applicant(s) WANG ET AL.	
	Examiner DJENANE M. BAYARD	Art Unit 2441	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 July 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4,20-22,39-41 and 43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4,20-22,39-41 and 43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>2/01/08</u> . | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 2441

1. This is in response to communication filed on 12/19/07 in which claims 1-4, 20-22, 39-41 and 43 are pending.

Response to Arguments

2. Applicant's arguments with respect to claims 1-4, 20-22, 39-41 and 43 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-4, 20-22 and 40-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,981,029 to Menditto et al in view of U.S. Patent Application No. 2003/0023744 to Sadot et al.

- a. As per claims 1 and 20, Menditto et al teaches a system for allocating a resource in a network comprising: multiple network data ports to connect to the network to receive and route requests to servers in the network; first logic in the network for determining if any of a plurality of persistence policies, comprising at least one first persistence policy and at least one second persistence policy, is applicable to a service request, and, if so, allocating the resource to the request based on application of the persistence policy determined to be applicable (See col. 6,

Art Unit: 2441

lines 53-67) determined to be applicable, wherein the first persistence policy, if applicable, directs the service request to a server, previously or currently connected to the client, that is identified based on content of the service request, the content comprising server, session or cookie information within the service request or corresponding packet at one or more layers corresponding to OSI layers 5-7, and wherein the second persistence policy, if applicable, directs the service request to a server, previously or currently connected to the client, that is identified based on client information within the service request or corresponding packet (See col. 3, lines 11-15, 6, lines 2-67); the first logic configured so that: when a service request for a content-enabled service is received, the first logic determines if the at least one first persistence policy is applicable (See col. 6, lines 65-67, *if the request traffic qualifies for content processing it is routed to an appropriate content gateway processor where the content of the request is processed*); when a service request for a non-content enabled service is received, the first logic determines if the at least one second persistence policy is applicable (See col. 6, lines 53-60); when the content-aware of service request is received but it is determined that the first persistence policy is inapplicable, the first logic determines if the at least one second persistence policy is applicable (See col. 10, lines 42-45); wherein the first logic is shared by and supports service requests for both content-enabled and non-content enabled services (See col. 5, lines 16-21); However, Menditto et al fails to teach a second logic coupled to the network data ports for allocating the resource to the request based on application of a load balancing policy only if none of the plurality of persistence policies is determined to be inapplicable as determined by the first logic.

Sadot et al teaches a second logic in the network for allocating the resource to the request based on application of a load balancing policy only if none of the plurality of persistence policies is determined to be inapplicable as determined by the first logic (See page 3, paragraph [0035]).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate the teaching of Sadot et al in the claimed invention of Menditto et al in order to select a server to receive at least one of the client messages, at least partially responsive to the contents of the memory unit, and to forward the at least one of the client messages to the selected server (See page 2, paragraph [0020]).

b. As per claim 2, Menditto et al in view of Sadot et al teaches the claimed invention as described above. However, Menditto et al fails to teach wherein the first logic determines if a persistence policy is applicable to a service request having through consideration of whether or not an allocation exists or recently expired for an originator the service request (See page 3, paragraph [0034-0035]).

Sadot et al teaches wherein the first logic determines if a persistence policy is applicable to a service request having through consideration of whether or not an allocation exists or recently expired for an originator the service request (See page 3, paragraph [0034-0035]).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate the teaching of Sadot et al in the claimed invention of Menditto et al in order to select a server to receive at least one of the client messages, at least partially responsive

Art Unit: 2441

to the contents of the memory unit, and to forward the at least one of the client messages to the selected server (See page 2, paragraph [0020]).

c. As per claims 3 and 21, Menditto et al teaches a system for allocating a resource, in a network, to a resource request, the request having an originator based on application of a persistence policy comprising: multiple network data ports to connect to the network to receive and route requests to servers in the network; first logic coupled to the data ports for determining whether an allocation exists or recently expired for the originator of the resource request, based on application of any of a plurality of persistence policies, comprising at least one first persistence policy and at least one second persistence policy, to the request, and, if so, identifying the resource which is the subject of the existing or recently expired allocation (See col. 6, lines 53-67), wherein the first persistence policy, if applicable, directs the resource request to a server, currently or previously connected to the originator of the request or corresponding client, that is identified based on content of the resource request, the content comprising server, session or cookie information within the resource request or corresponding packet at one or more layers corresponding to OSI layers 5-7, and wherein the second persistence policy, if applicable, directs the resource request to a server, currently or previously connected to the originator of the request or corresponding client, that is identified based on client information within the request or corresponding packet (See col. 3, lines 11-15, 6, lines 2-67); the first logic configured so that: when a resource request for a content-enabled service is received, the first logic determines whether an allocation exists or recently expired for the originator of the resource request by applying the at least one first persistence policy, or the at least one second persistence policy

Art Unit: 2441

when the at least one first persistence policy is determined to be inapplicable (See col. 6, lines 65-67, *if the request traffic qualifies for content processing it is routed to an appropriate content gateway processor where the content of the request is processed*); when a resource request for a non-content enabled service is received, the first logic determines whether an allocation exists or recently expired for the originator of the resource request by applying the at least one second persistence policy (See col. 6, lines 53-60); wherein the first logic is shared by and supports resource requests for both content-enabled and non-content-enabled services(See col. 5, lines 16-21); However, Menditto et al fails to teach a second logic in the network for allocating the resource, once identified, to the resource request

Sadot et al teaches a second logic in the network for allocating the resource, once identified, to the resource request (See page 3, paragraph [0035]).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate the teaching of Sadot et al in the claimed invention of Menditto et al in order to select a server to receive at least one of the client messages, at least partially responsive to the contents of the memory unit, and to forward the at least one of the client messages to the selected server (See page 2, paragraph [0020]).

d. As per claims 4 and 22, Menditto et al in view of Sadot et al teaches the claimed invention as described above. Furthermore, Menditto et al teaches wherein the resource request is derived from or represented by a packet (See col. 5, lines 53-56).

e. As per claim 40, Menditto et al in view of Sadot et al teaches the claimed invention as described above. However, Menditto et al fails to teach wherein the at least one first persistence policy comprises at least one session-based persistence policy, and the at least one second persistence policy comprises at least one client-based persistence policy.

Sadot et al teaches wherein the at least one first persistence policy comprises at least one session-based persistence policy, and the at least one second persistence policy comprises at least one client-based persistence policy (See page 3, paragraph [0034-0035]).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate the teaching of Sadot et al in the claimed invention of Menditto et al in order to select a server to receive at least one of the client messages, at least partially responsive to the contents of the memory unit, and to forward the at least one of the client messages to the selected server (See page 2, paragraph [0020]).

f. As per claim 41, Menditto et al teaches a system for allocating a resource in a network comprising: first logic in the network for determining if any of a plurality of persistence policies, comprising at least one cookie-based persistence policy, at least one session-based persistence policy, and at least one client-based persistence policy, is applicable to a service request, and, if so, allocating the resource to the request based on application of the persistence policy determined to be applicable (See col. 4, lines 18-47) the request based on application of the persistence policy determined to be applicable, wherein the first persistence policy, if applicable, directs the service request to a server, currently or previously connected to the client,

Art Unit: 2441

that is identified based on content of the service request, the content comprising server, session or cookie information within the service request or corresponding packet at one or more layers corresponding to OSI layers 5-7, and wherein the second persistence policy, if applicable, directs the service request to a server, currently or previously connected to the client, that is identified based on client information within the service request or corresponding packet at a layer corresponding to OSI layer 4 (See col. 3, lines 11-15, 6, lines 2-67); the first logic configured so that: when a content-aware service request is received, the first logic determines if either the at least one cookie-based or at least one session-based persistence policy is applicable (See col. 6, lines 65-67); when non-content-aware service request is received, the first logic determines if the at least one client-based persistence policy is applicable (See col. 6, lines 53-60); when the first type of service request is received but it is determined that both the at least one cookie-based persistence policy and the at least one session-based persistence policy are inapplicable, the first logic determines if the at least one client-based persistence policy is applicable (See col. 10, lines 42-45); However, Menditto et al fails to teach a second logic in the network for allocating the resource to the request based on application of a load balancing policy only if none of the plurality of persistence policies is determined to be applicable as determined by the first logic.

Sadot et al teaches a second logic in the network for allocating the resource to the request based on application of a load balancing policy only if none of the plurality of persistence policies is determined to be applicable as determined by the first logic. (See page 3, paragraph [0035]).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate the teaching of Sadot et al in the claimed invention of Menditto et al in

Art Unit: 2441

order to select a server to receive at least one of the client messages, at least partially responsive to the contents of the memory unit, and to forward the at least one of the client messages to the selected server (See page 2, paragraph [0020])

7. Claim 39 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,981,029 to Menditto et al in view of U.S. Patent Application No. 2003/0023744 to Sadot et al as applied to claim 1 above, and further in view of U.S. Patent No. 6,351,812 to Datar et al.

a. As per claim 39, Menditto et al in view of Sadot et al teaches the claimed invention as described above. Furthermore, Menditto et al in view of Sadot et al fails to teach wherein the at least one first persistence policy comprises at least one cookie-based persistence policy, and the at least one second persistence policy comprises at least one client-based persistence policy.

Datar et al teaches one cookie-based persistence policy, and the at least one second persistence policy comprises at least one client-based persistence policy (See col. 7, lines 32-54).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate the teaching of Datar et al in the claimed invention of Menditto et al in view of Sadot et al in order to examine the status of information provided by the client and determine if it is adequate based on application-appropriate policies regarding the freshness of the information (See col. 4, lines 44-48).

8. Claim 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over U U.S. Patent No. 6,981,029 to Menditto et al in view of U.S. Patent Application No.2003/0023744 to Sadot et al as applied to claim1 above in view of U.S. Patent Application No. 2002/0199014 to Yang et al.

a. As per claim 43, Menditto et al in view of Sadot et al teaches the claimed invention as described above. However, Menditto et al in view of Sadot et al fails to teach wherein the first type of resource request is content-aware, and the second type of resource request is non-content-aware.

Yang et al teaches wherein the first type of resource request is content-aware, and the second type of resource request is non-content aware (See paragraph [0012]).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate the teaching of Yang et al in the claimed invention of Sadot et al in order to enable intelligent request routing (See paragraph [0012]).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

Art Unit: 2441

MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DJENANE M. BAYARD whose telephone number is (571)272-3878. The examiner can normally be reached on Monday- Friday 5:30 AM- 3:00 PM..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on (571) 272-3880. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Djenane Bayard

Application/Control Number: 10/075,051
Art Unit: 2441

Page 12

/D. M. B./
Examiner, Art Unit 2441

/William C. Vaughn, Jr./
Supervisory Patent Examiner, Art Unit 2444